

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

1-800 CONTACTS, INC.,

Civil No. 10-4440 (JRT/JJK)

Plaintiff,

v.

ORDER

DAVID J. EILERS and TWIN CITIES
EYE SPECIALISTS, L.L.C.,

Defendants.

Haley N. Schaffer and Michael C. McCarthy, **MASLON EDELMAN BORMAN & BRAND, LLP**, 90 South Seventh Street, Suite 3300, Minneapolis, MN 55402; Jefferson W. Gross, **BURBIDGE MITCHELL & GROSS**, 215 South State Street, Suite 920, Salt Lake City, UT 84111, for plaintiff.

Patrick S. Williams, **BRIGGS & MORGAN, PA**, 80 South Eighth Street, Suite 2200, Minneapolis, MN 55402, for defendants.

Based on the parties' Stipulation for Settlement [Docket No. 5], the entire record, file and proceedings herein, and with the express understanding that Defendants admit to no wrongdoing.

IT IS HEREBY ORDERED THAT:

1. As used herein, "Defendants" includes both David J. Eilers and Twin Cities Eye Specialists, Inc., as well as their agents, officers, servants, employees, representatives, and all other persons or entities acting in concert or participating with them.
2. Defendants shall be and hereby are enjoined from denying the validity of contact lens prescriptions based on Plaintiff's prescription verification methods; in other words,

Defendants shall not deny the validity of a prescription based on the telephone verification methods employed by Plaintiff;

3. Defendants shall be and hereby are enjoined from telling their patients and customers that Plaintiff does not verify its customers' contact lens prescriptions;

4. Defendants shall be and hereby are enjoined from disparaging or otherwise making any negative statements about Plaintiff or its business practices.

5. Before December 15 2010, Dr. Eilers shall send to each of his patients for whom he has prescribed contact lenses up until the date of this Stipulation a letter in the form attached hereto as Exhibit A. The letter shall be on Defendants' letterhead. The letter shall not be sent with any other documents, communications, and/or advertisements; it shall be the only thing sent in the envelope. Dr. Eilers shall provide to the Plaintiff a signed copy of the letter for its file.

6. The original complaint shall be sealed. The Plaintiff shall file a public version of the original complaint in which paragraphs 17 – 21 of the original complaint are redacted.

7. Violation of this Order and Injunction may be punishable as contempt.

8. The United States District Court for the District of Minnesota shall retain jurisdiction to enforce this Order and Injunction.

9. Subject to the provisions of this Order and Injunction, Plaintiff's claims are hereby dismissed with prejudice with all parties to bear their own attorneys' fees and costs.

LET JUDGMENT BE ENTERED ACCORDINGLY

Dated: December 10, 2010

at Minneapolis, Minnesota

s/John R. Tunheim

JOHN R. TUNHEIM
United States District Judge